

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
DECEMBER 11, 2019**

**CALL TO ORDER**      A meeting of the Flathead County Planning Board was called to order at  
**6:00 PM**              approximately 6:00 p.m. at South Campus Building, 40 11<sup>th</sup> Street W, Ste.  
200, Kalispell, Montana. Board members present were Dean Sirucek, Jeff  
Larsen, Mike Horn, Elliot Adams, Jim Thompson and Kevin Lake. Ron  
Schlegel, Sandra Nogal, and Greg Stevens had an excused absence. Erin  
Appert, Rachel Ezell, and Mark Mussman represented the Flathead County  
Planning & Zoning Office.

There were 13 members of the public in attendance.

**APPROVAL OF**      Sirucek made a motion, seconded by Horn, to approve the November 13, 2019  
**MEETING**  
**MINUTES**              meeting minutes as amended.

**6:01 PM**              Motion passed on a 3-0 roll call vote. Lake, Larsen, and Horn abstained.

**PUBLIC**              Daniel Shaw, 330 Fairway Dr., read a statement regarding his concern of three  
**COMMENT**              projects being developed as condominiums adjoining their property. These  
*(Public matters that*              projects are known as Snow Bear Chalet Treehouses (i.e. Goodwin  
*are within the*              Condominiums), Residence at Snow Bear, and Whitefish Log Cabins. He  
*jurisdiction of the*              expressed his concerns in great detail through the statement he submitted and  
*Board 2-3-103*              along with paperwork for the board to review.  
*M.C.A)*

**6:01 PM**

**DISCLOSURE OF**      None  
**ANY CONFLICT**  
**OF INTERESTS**  
**6:10 PM**

**ARENDS ZONE**      A zone change request by Paul Arends, on behalf of Riverside Vineyard  
**CHANGE**              Church for property in the Highway 93 North Zoning District. The proposal  
**(FZC-19-18)**              would change the zoning on property located at 3171 Highway 93 North in  
**6:10 PM**              Kalispell, MT from *SAG-10 (Suburban Agricultural)* to *B-3/HO (Community  
Business/Highway Overlay)*. The total acreage involved in the request is  
approximately 4.7 acres.

**STAFF REPORT**      Erin Appert reviewed staff report FZC-19-18 for the board.  
**6:10 PM**

**BOARD  
QUESTIONS  
6:13 PM**

Larsen inquired about the minimum area requirement of 5 acres and wanted to confirm that the administrator determined the 4.7 acres to be ok and the explanation behind that.

Appert said the property was originally 5 acres and the owners had done a boundary line adjustment, reducing it to 4.7 acres. The zoning administrator did determine it was ok.

**APPLICANT  
PRESENTATION  
6:14 PM**

Tye Le Duc, 130 McDowell Dr., was the applicant and the buyer of the property. He was available for questions.

**BOARD  
QUESTIONS  
6:14 PM**

Sirucek asked that he respond to the comments received by the City of Kalispell regarding the future street extension and future placement of water and sewer services. He wished the applicant to comment on the finding of fact #5, addressing that there did not seem to be a coordinated effort to mitigate the traffic impact to the adjacent highway and so on.

Le Duc said he had gone in to talk to the City of Kalispell. It sounded like, to him, as the development moved in that direction, there would be infrastructure coming in. When he talked with them about whether or not they were planning on annexing the property or not, they seemed open to the annexation, however the road, sewer, and water would already have be put in on his own. It sounded like the road that was there would be the road that they would use or there would be a frontage road put in. He did not know how long it would take the development to get out that far.

Sirucek asked about the City of Kalispell's timeline vs. his timeline. Le Duc said that he would like to fix the place up and get to work on it as soon as he could. He felt it might take a couple of years for the development to reach them but was unsure as he had not met with the developer. He was hoping to start working on his place come spring and start utilizing the property by summer or fall.

**AGENCY  
COMMENTS  
6:19 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC  
COMMENT  
6:19 PM**

None

**MAIN MOTION  
TO ADOPT F.O.F.  
(FZC-19-18)  
6:19 PM**

Lake made a motion, seconded by Sirucek, to adopt staff report FZC-19-18 as findings of fact.

**BOARD  
DISCUSSION  
6:20 PM**

None

**ROLL CALL TO  
ADOPT F.O.F.  
(FZC-19-18)  
6:20 PM**

Motion was passed on a 5-0 roll call vote. Thompson abstained.

**MAIN MOTION  
TO  
RECOMMEND  
APPROVAL  
(FZC-19-18)  
6:20 PM**

Lake made a motion, seconded by Adams, to recommend approval of FZC-19-18 to the Board of County Commissioners.

**BOARD  
DISCUSSION  
6:20 PM**

Lake questioned if DEQ looked into anything in regards to changes in the property. Larsen said not with a zone change but they would with a subdivision. Larsen clarified that if they did a public water and/or sewer system, they would look at that too. Lake explained that because it was a church, if it changed to multiple office building, would anything need to be looked at as far a septic. Larsen said that it would require a re-write to what was originally approved, unless it was one of those parcels that never went through DEQ.

Le Duc said that they had stopped in to Environmental Health and spoke with Wendee and asked her to take a look at the existing forms and system. They wondered if they needed to make any modifications. It was their understanding that the system was fine and that they would not have to do anything to update the system. They did have it inspected. He felt they did their diligence.

Sirucek felt it was problematic that the access to Hwy 93 was in the center of the lot (going west). Le Duc felt there was an easement and pointed it out on the projector map. Sirucek was concerned that it may become a major intersection at some point in time. DJ Walker, the applicant's realtor, pointed out the current approach. Sirucek still felt it was problematic. Le Duc said that it was not that close to the highway and they were open to walking paths and buffer zones; working with the county. Sirucek asked if the intersection was upgraded to a main intersection, would the approach become cumbersome to the intersection. Le Duc did not feel so and stated there was room.

Mussman interjected, that if it was approved, it would come with a highway overlay, which did require site plan review and part of that was to review the access. The current access appeared to be sufficient. He also pointed out that the shaded area had been approved by the city for the first few phases of Eagle Valley Ranch Subdivision and their accesses were all entirely on to Hwy 93 at that location. Mussman pointed this out on the projected map.

In response to the submitted City of Kalispell comment, he would have an argument about how it was alright for the city to develop but it was not ok for the county to rezone an existing structure and use the existing approach.

Larsen asked if the access was in the 60' right of way and if the development was going to use it as well. Mussman said yes.

Larsen asked if the zoning next to it would allow similar uses, and Mussman said yes and he understood that some of the larger parcels nearby would be multifamily houses and some office frontage, then it would become more of the typical residential family houses with fairly small lots as they moved east.

Larsen agreed with Mussman. They have received letters from the City of Kalispell before, and then they discovered that they City of Kalispell had a similar project close to the county. It has happened before. He was not trying to disparage the city at all but it comes across that it is ok if they do commercial but it is not ok if the county approves it. That becomes a little frustrating at times.

Mussman said that it can be argued that the comment could be perceived as a little disingenuous when they have approved an extensive multi-face development adjacent to that. He could imagine, when it was all said and done, that they will blend together and a person would not be able to determine whether or not that piece of property is annexed in to the city or still a part of the county.

Larsen said that he has found the problem is that people would be willing to go in to the city but it can be so expensive and can kill the project. He has had that happen with some of the projects that he has worked on. He wished the sewer plant was a regional plant.

Sirucek clarified that Mussman did not know of any plan that there would be an indirect access to a Rose Crossing Development, which the City of Kalispell had referred to in their comment. Mussman said he did not know of any direct plan and the City had asked the County for comment on that plan.

Adams asked if there was a new road, off of roads crossing, headed north and if that was something that could tie into that. Mussman said that it could

depending on the properties to the south of the Eagle Valley Ranch Subdivision. On what was reviewed and approved by the city, it did not show any future connection to Rose Crossing.

**ROLL CALL TO  
RECOMMEND  
APPROVAL  
(FZC-19-18)  
6:34 PM**

The motion passed unanimously on a roll call vote

**REMINGTON &  
OHLER ZONE  
CHANGE  
(FZC-19-19)  
6:35 PM**

A zone change request by Randal W. & Cynthia A. Remington and Timothy L. Ohler for properties in the Willow Glen Zoning District. The proposal would change the zoning on properties located at 602 and 616 Willow Glen Drive, Kalispell, MT from *R-2 (One Family Limited Residential)* to *R-5 (Two Family Residential)*. The total acreage involved for the two parcels is 5.88 acres.

**STAFF REPORT  
6:35 PM**

Rachel Ezell reviewed staff report FZC-19-19 for the board.

**BOARD  
QUESTIONS  
6:38 PM**

Larsen pointed out a grammatical error, in which staff noted, and would change.

**APPLICANT  
PRESENTATION  
6:38 PM**

Ryan Remington, 19 Happy Hallow, was the applicant and was in agreement with what had been shared by staff. He was available for questions.

Tim Ohler, 1717 South Woodland Dr., was an applicant as well and expressed that he had no definite plans for the future of the property. If he did do something in the future, it would be something simple like RV Storage or of like nature.

**BOARD  
QUESTIONS  
6:39 PM**

None

**AGENCY  
COMMENTS  
6:40 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC  
COMMENT  
6:00 PM**

None

<b>MAIN MOTION TO ADOPT F.O.F. (FZC-19-19) 6:41 PM</b>	Sirucek made a motion, seconded by Lake, to adopt staff report FZC-19-19 as findings of fact.
<b>BOARD DISCUSSION 6:41 PM</b>	None
<b>ROLL CALL TO ADOPT F.O.F. (FZC-19-19) 6:41 PM</b>	Motion was passed unanimously on a roll call vote.
<b>MAIN MOTION TO RECOMMEND APPROVAL (FZC-19-19) 6:41 PM</b>	Adams made a motion, seconded by Lake, to recommend approval of FZC-19-19 to the Board of County Commissioners.
<b>BOARD DISCUSSION 6:41 PM</b>	None
<b>ROLL CALL TO RECOMMEND APPROVAL (FZC-19-19) 6:41 PM</b>	The motion passed unanimously on a roll call vote
<b>OLD BUSINESS 6:42 PM</b>	None
<b>NEW BUSINESS 6:42 PM</b>	<p>Mussman addressed the public concern brought up this evening. He notified the board that Planning and Zoning staff had been in contact and were working on solutions for that issue on Big Mountain. He did talk to the legal counsel for the developer for Snow Bear and those units will not be sold individually. One entity will own the entire structure and will be used for short term rentals, subject to the State of Montana Accommodation Tax and was therefore exempt from buildings for lease or rent review.</p> <p>He did not know what was going on with the Big Mountain Cabins. In writing the letters that he did write there was a third exemption and continued to read the subdivision regulations regarding condominiums.</p>



He addressed the treehouses and said it was the third winter season that they will be available for short term rentals. The first two seasons were owned by the original developer. There were no conversions and Mussman had relied on that exemption to write the brief little letter that was mentioned earlier. The same with the Snow Bear, but as it turns out, they are not going to sell the units individually according to their legal counsel. Mussman did clarify that it was in an unzoned area. Larsen asked if the setback issue did not really apply to them. Sirucek clarified that he thought there was some planning up there. Mussman said that there was but there is a little pocket that is unzoned, which included this property. Larsen asked if there were some setbacks for unzoned areas. Mussman said for the creation of new lots, and clarified that the development that is occurring in a subdivision on subdivision lots, but the creation of new lots in unzoned areas shall be a minimum average width of 60 ft and a minimum frontage of 30 feet abutting the local or primary road access and having access to that road. They continued to discuss the zoning regulations and application in this situation. He said it was a question over whether or not they could administer regulations in areas that were typically reserved for zoning within unzoned areas with the subdivision regulations. Subdivision regulations were for the creation of new lots and parcels within a subdivision. They had been told that they could not do zoning in subdivisions.

Mussman also mentioned that in January, he wanted the board to initially review the changes to the PUD section of the Zoning Regulations as well as strategies on what to do with AG properties prior to any hearing on them.

He also addressed that the Kalispell City Master Plan and the Columbia Falls City Master Plan were outdated and, following discussions he had with the Commissioners, he wanted to take them out of our current growth policy because they were antiquated.

Sirucek asked if they were going to be provided a program of work. Mussman said he would.

**ADJOURNMENT**  
**6:51 PM**

The meeting was adjourned on a motion by Sirucek and Adams at approximately 6:51 pm. The next meeting will be held January 8, 2020.

  
Jeff Larsen, Chairman

  
Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: ~~1-11-20~~ 1/8/20